

U.S. Patent Application Serial No. 10/619,749
Reply to Office Action dated November 16, 2005

Remarks:

Applicants have read and considered the Office Action dated November 16, 2005 and the references cited therein. Claims 1, 7, 11, 13-14 and 18 have been amended and new claims 21-25 have been added. Claims 2-6 and 17 have been cancelled without prejudice or disclaimer. Claims 1, 7-16 and 18-25 are currently pending.

In the Action, claims 1, 11, 13, 14 and 18 recite the limitation "the cap." The Action states there is insufficient antecedent basis for the limitation and that "cap" should be replaced with "cover." "Cap" has been replaced with "cover" throughout the claims and Applicants assert that the rejection is overcome.

Claims 1-2, 4, 7-8, 10-14, 17-18 and 20 were rejected under 35 U.S.C. § 102(b) as being anticipated by Bazany. Claim 1 recites a container comprising a base, a cover, a sidewall comprising a corrugated wall setting onto the base and receiving the cover, wherein the corrugated wall defines a plurality of openings extending along the length of the wall and wherein at least one of the openings includes a reinforcing member inserted therein. Moreover, claim 1 recites the sidewall comprising a first corrugated wall layer and a second corrugated wall layer overlaying the first corrugated wall layer, wherein the first wall layer defines vertical openings and the second wall layer defines horizontal openings. Claim 1 further recites that at least one of the vertical openings includes a reinforcing member inserted therein and at least one of the horizontal openings includes a reinforcing member inserted therein. Applicants assert that Bazany neither teaches nor suggests such a configuration and only includes a single wall container. Applicants therefore assert that claim 1 and the claims depending therefrom patentably distinguish over Bazany.

Claim 17 has been cancelled and the rejection over Bazany is moot.

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Claim 18 now recites first and second interchangeable sidewalls with a second sidewall comprising a first corrugated wall portion defining a plurality of vertically extending openings along the first wall portion, and wherein at least one of the vertically extending openings includes a reinforcing member inserted therein, and a second corrugated wall portion overlaying the first corrugated wall portion. Applicants assert that Bazany neither teaches nor suggests such a configuration. The container of claim 18 provides interchangeability and various configurations for a container and greater utility and flexibility. Moreover, the second sidewall provides for reinforcement that is not possible with Bazany. Applicants assert that claim 18 and claims 19-20 patentably distinguish over Bazany.

Claims 3, 5-6 and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bazany in view of Bradford et al. Claims 3 and 5-6 have now been cancelled without prejudice or disclaimer. Claim 19 depends from claim 18. Applicants assert that Bradford neither teaches nor suggests the claimed invention. The Bradford device teaches only double wall sleeve packs while Bazany teaches only a single wall sleeve pack. Applicants assert that neither of the references teaches interchangeability. The references are specifically configured for receiving the respective sidewalls. Applicants assert that the present invention provides a configuration that has a cover and base that are configured for receiving either the first or second sidewalls and that this is not shown nor suggested by the prior art. Applicants assert that claim 18 is patentable over the combination of Bazany and Bradford and that claim 19 is therefore patentable as well.

Claim 9 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Bazany in view of Kupersmit. Applicants assert that claim 1 patentably distinguishes over Bazany for at least the reasons discussed above. Moreover, Applicants assert that Kupersmit fails to remedy the shortcomings of Bazany. Applicants therefore assert that claim 1 patentably distinguishes over the combination of Bazany and Kupersmit and that claim 9 therefore also patentably distinguishes over the references for the same reasons as well as others.

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Claims 15 and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bazany in view of Darby. The Office Action asserts that Bazany fails to teach a channel but that Darby teaches such a channel. Claims 15 and 16 depend from claim 1, which is believed to distinguish over Bazany for the reasons discussed above. Darby fails to remedy the shortcomings of Bazany. Applicants assert that claim 1 patentably distinguishes over the combination of Bazany and Darby and any other prior art. Applicants therefore asserts that claim 1 patentably distinguishes over the combination and claims 15 and 16 are therefore allowable for these reasons as well as others.

New claim 21 recites, *inter alia*, a container comprising a base including a plurality of legs extending from an underside of the base and a cover defining a plurality of nesting portions formed in an upper surface of the cover, each nesting portion defining a recess and aligned with one of the legs of the base, wherein the base and the cover are configured to nest when the container is stacked on another like container. Claim 1 further recites a sidewall comprising a corrugated wall setting onto the base and receiving the cover, wherein the corrugated wall defines a plurality of openings extending along a length of the wall, and wherein at least one of the openings includes a reinforcing member inserted therein. Applicants assert that none of the prior art teaches or suggests the base and cover configuration. The present invention provides for improved nesting, stacking and alignment that is not possible with the prior art. None of the references teach or suggest the recited structure. The prior art teaches only a cover having a planar upper surface but not the nesting portions and the recesses configured for receiving the legs of the pallet portion. Applicants assert that claim 21 patentably distinguishes over the prior art.

Claim 22 further recites that the cover and base include support portions engaging an outer portion of the sidewall and that the base defines a channel for receiving the sidewall and the cover defines a channel for receiving the sidewall. Applicants assert that none of the prior art

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teaches the combination of claims 21, 22 and 23. Applicants assert that claims 22 and 23 are therefore allowable.

Claim 24 recites a sidewall including a door. Although the Office Action asserts that Kupersmit shows a door, it does not show the recited structure of the cover and base of claim 21. Applicants assert that claim 24 is therefore allowable for at least those reasons as well as others.

Finally, claim 25 recites that the nesting portions define a plurality of spaced apart strap receiving portions on an upper surface of the cover and the legs define a plurality of spaced apart strap receiving portions on a lower surface of the base. None of the prior art teaches or suggests such strap receiving portions. The present invention provides for greater safety in retaining the base and cover to the sidewall providing for extending straps underneath around and over the container. The strap receiving portions ensure that the straps do not slide off the edge and are maintained in place. None of the prior art teaches or suggests such structure and Applicants assert that the claims patentably distinguish over the prior art including all containers and pallets.

Applicants assert that the claims are in condition for allowance. A speedy and favorable action on the merits is hereby solicited. If the Examiner feels that a telephone interview may be helpful in this matter, please contact Applicants' Representative at (612) 336-4728.



Respectfully submitted,

MERCHANT & GOULD P.C.

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